own security and government so that the phased redeployment of U.S. forces from Iraq can begin by year's end.

As we all know, I think the Republican majority rejected the Levin-Reed proposal on a straight party-line vote. One courageous Republican voted with us. The rest were all no votes. Even though it represents our best chance at making sure our troops succeed in Iraq, and Iraq as a country succeeds, and, secondly, even though it is consistent with the plan of our top military commander in Iraq, on a straight party-line on the floor last week the Republicans voted against the Levin-Reed proposal, even though it was very much like General Casey's proposal.

By rejecting this amendment—the Democratic amendment—the Republicans made clear that they were content to stay the course and to stay forever in Iraq. I wonder how the majority feels today now that General Casey's plan is in the open, now that it is clear that the congressional Republicans stand alone in opposition to troop redeployment, apart from the American people, even though their stand is contrary, I repeat, to the American people, even though the Republican stand is contrary to the military commanders, those who are in the battlefield in Iraq, and even though the Republican majority vote last week was contrary to the Iraqi Government.

Did they disagree with General Casey? Do they disagree that we need to begin ending the open-ended commitment in Iraq? Do they, the Republican Senators, believe a plan for reducing our troop levels, as they said last week with the Levin-Reed proposal—do they believe that what General Casey suggests is defeatist and that he is unpatriotic? Do they have a plan now of their own—the Republican majority—or do they still want to stay the course?

These are questions the American people are going to demand that the Republican majority answer.

The open-ended commitment the majority advocates is simply not sustainable, as seen through the eyes of General Casey, as seen through the eyes of the Iraqi Prime Minister. We must transform the United States mission in Iraq and begin the responsible redeployment of U.S. forces this year. That is what the Levin-Reed amendment said last week that the Republicans defeated.

The war is now costing the American people about $2.5 billion each week. Our military has been stretched thin, with every available combat unit in the Army and Marine Corps serving multiple tours in Iraq, and our equipment needing $50 billion or $60 billion to be in the shape it was when we went to war in Iraq. We have lost more than 2,500 American lives, 15 just last week. We have seen more than 18,000 wounded and a third to a half of them grievously wounded. Iraq, according to a new report in Sunday's L.A. Times, has lost at least 50,000 of its citizens since 2003.

We cannot continue to pay these costs, nor can we continue to try to engage growing threats such as North Korea, Iran, and Somalia with engagements in Iraq tying one hand behind us.

The phased redeployment this year will put Iraqis in charge of their own security and allow many of our troops to be redeployed. Some will come home and some will be available to deal with other crises, such as Afghanistan, where the resurgent Taliban threat must be eliminated, and where those responsible for attacks on this Nation still roam free basically.

It is time for a new direction. General Casey realizes this. The American people realize this. The Iraqi Government realizes this. And it is time for the Republican majority in the Congress to realize this as well.

We don't need a September or October surprise with the President and Republicans proclaiming victory and announcing troop redeployment just in time for the mid-term elections. We need a nonpartisan approach that provides Iraqis and our troops with the best chance for success now, in June, 2006.

We are in the fourth year of this war. It is time that the direction is changed. It is time to end this game of partisan politics, of blindly rubber-stamping the White House, and of publicly rejecting ideas that are being embraced in private, and now in public, by our military leaders. Our troops in Iraq are too important to fall victim to these political games.

This leads me to another important subject the Senate must consider, which has also fallen victim to partisan politics—amnesty for terrorists who have killed our troops.

I have come to the floor many times in recent weeks to discuss Iraq granting amnesty to terrorists. Rumors are no longer valid. These are not rumors. The Prime Minister himself has submitted an amnesty plan. So it has turned into fact. But I still have very serious concerns.

According to the news reports out of Baghdad over the weekend, the Prime Minister will pardon those who engaged in legitimate acts of resistance. Against who, Mr. President? What does that mean? Does it mean that these are legitimate acts of resistance when we have soldiers trying to free someone who is being detained by a kidnapper? What are legitimate acts of resistance? Against a Nation that liberated that nation from a brutal dictator? Is it a sniper who shoots at a soldier who is trying to restore power and electricity to a Baghdad neighborhood? Is it placing a roadside bomb next to a convoy that was trying to repair a road in the Sunni triangle or fix a school? Is it detonating an improvised explosive device against a team of U.S. soldiers who are attempting to build a hospital in Iraq? I think not.

Just who is this resistance? What are they resisting? Are they resisting freedom or democracy? Why should they be given immunity for acts that have been perpetrated against the United States and against coalition forces? Why? The concept, I believe, is outrageous and an insult to all of the brave American soldiers who serve with distinction every day.

President Bush needs to forcibly tell the Iraqi Prime Minister that his amnesty plan, as reported, is not welcome. The Senate had the chance to send this message last week. The majority strenuously resisted the attempt of us Democrats to send a clear message to Iraq. In spite of the attempts to minimize our amendment, it passed. We carried the day.

I hope Republicans will revisit their opposition in light of the latest developments, and I hope President Bush will stand up for our troops by demanding the Iraqis drop any intentions they may have to let the terrorists go.

I support reconciliation in Iraq; however, not at the expense of our American troops, those who have sacrificed and those who are there now. They have sacrificed too much to see their service dishonored or their safety put at risk.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

VISIT TO THE SENATE BY MEMBERS OF THE CANADIAN SENATE

Mr. STEVENS. Mr. President, I have the honor of presenting the Speaker of the Canadian Senate, Noel Kinsella, and Canadian Senator Colin Kenny and Senator Donald Oliver who are visiting us today.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. STEVENS. Mr. President, I ask unanimous consent that there be a moment of recess so we may be able to introduce the Senators and the Speaker to our distinguished leaders.

There being no objection, the Senate, at 2:15 p.m., recessed until 2:21 p.m. and reassembled when called to order by the Acting President pro tempore (Mr. BURR).

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ENERGY AND HEALTH CARE

Mr. WYDEN. Mr. President, with the Senate heading for the break for the Fourth of July recess, obviously, there will not be many more days left in this year's schedule. I am going to spend

some time on the floor in the days ahead focusing on those areas where there is significant bipartisan support for making a real difference for the American people, especially on those key domestic issues of energy and health care, two areas I know the Presiding Officer, the distinguished Senator from North Carolina, cares a great deal about.

For example, on the energy front, today, I and Senator KYL and Senator SNOWE and Senator LIEBERMAN sent a letter to the distinguished majority leader, Senator FRIST, asking that we have an opportunity to debate how the Government can save between $20 billion and $80 billion on an energy program that is totally out of control. It involves the Federal Government's oil and natural gas royalty program.

It is a program that began at a time when oil was somewhere in the vicinity of $20 a barrel. It has been a bipartisan concern of Senators that it makes no sense to spend billions and billions of dollars subsidizing the price of oil when it is at record levels.

I spent, as you know, Mr. President, about 5 hours on the floor of the U.S. Senate discussing this issue a few weeks ago, and I certainly have no intention of duplicating that this afternoon. But I do think it is important to zero in on those issues that have bipartisan support, and I want to describe what has happened in the Senate and in the other body since I and Senator KYL talked about this program a number of weeks ago.

After we discussed it for those many hours on the floor of the U.S. Senate, on May 17 the House of Representatives voted on a measure that was virtually identical to the final Wyden-Kyl amendment. Two-hundred and fifty Members of the House of Representatives, with regard to this issue, after a lengthy debate, voted to address a mistake that has been pointed out by Senators of both political parties here on this floor.

So my hope is—and this is the point of our bipartisan letter to Senator FRIST today—we can get an opportunity for a real debate on this issue on the floor of the U.S. Senate before the Senate breaks for the August recess.

It is one thing to talk about subsidies at a time, for example, when the price of oil is low, when the oil sector is hurting, when they are having difficulty getting the adequate dollars together for the investments that are needed in this vital part of our economy. But certainly that is not the case today. Today we are talking about record profits, we are talking about record prices, and we certainly do not need record subsidies.

I and Senator KYL would like a chance to put this issue before the entire U.S. Senate. On our letter today to the majority leader, Senator SNOWE and Senator LIEBERMAN—two Members who have been very involved in these issues for a number of years as well—are joining us.

I also point out the mistakes in this program are bipartisan. Certainly, there were mistakes made during the Clinton administration when there was a failure to address what is called the threshold issue to ensure you do not subsidize these oil companies at a time when profits are extremely high and you do not need these incentives. So the Clinton administration mangled the job before President Bush and his team took over. But certainly the problem was compounded by Gale Norton, who was then Secretary of the Interior, who insisted on raising the subsidies even more administratively.

And then, as I talked about on the floor of the Senate when the Congress passed the energy bill as part of this session, the deal was sweetened even more. Again, virtually no independent expert thought the subsidies were needed. When I asked the oil company executives, who came before the Energy Committee, on which the Presiding Officer, the distinguished Senator from North Carolina, and I both serve, the executives, to a person, said: We do not need these subsidies at a time of record prices and record profits.

So the Congress is behind the American people. Frankly, the Congress is lagging behind even what the oil executives have said they could live with. At a time when the House of Representatives—more than 250 in number—has voted to cut these subsidies, the Senate should not be dawdling on this issue any longer.

We are talking about substantial sums of money. The General Accounting Office has said it is in the vicinity of $20 billion. There is litigation underway now. If the litigation is successful, the bill to the Government could be in the vicinity of $80 billion. That is a substantial amount of money to be frittering away now when there are all these pressing needs here at home and for our country.

So given that I am going to be talking in the days ahead about issues where there is significant bipartisan support, specifically focusing on these key domestic issues of health care and energy, I start today by making a unanimous consent request that the letter that I, Senator KYL, Senator LIEBERMAN, and Senator SNOWE have sent to Senator FRIST be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 26, 2006.

Hon. BILL FRIST,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR FRIST: Serious concerns have arisen regarding the implementation of the federal government's oil and natural gas royalty program. Recent news reports and the administration's own statements suggest that the government may be unable to collect billions in royalties from certain leases of federal land and waters. With oil and gas prices at historic levels, there is no good reason for royalty relief incentives.

In an effort to promote the exploration and production of natural gas and crude oil in deep water, the Deep Water Royalty Relief Act of 1995 implemented a royalty-relief program that relieves eligible leases from paying royalties on defined amounts of deepwater production. This would be accomplished by allowing the Secretary of the Interior and the oil and gas companies to enter into leases with a defined volume suspension and price threshold. This incentive was intended to help companies that undertook these investments in particularly highcost, high-risk areas to be able to recover their capital investment before having to pay royalties on their gross revenues. It came at a time when oil and gas prices were low and the interest in deep water drilling was lacking. At that time, the program was needed to encourage production and it helped achieve that goal. The American Petroleum Institute estimates that since 1996, natural gas production is up 407 percent and oil 386 percent.

However, during 1998 and 1999, price thresholds were not included in terms of the leases, thereby allowing companies to recoup their capital investments long before the expiration of volume suspension. The absence of price thresholds in these leases allows companies to benefit both from both high market prices and volume suspensions. The Mineral Management Service has said the failure to include price thresholds was not intentional, but a costly mistake—and one that must be corrected with some help from Congress.

On May 17, the House of Representatives during consideration of the Fiscal Year 2007 Interior Appropriations Bill debated and voted 252–165 to address this mistake. We do not necessarily believe the House proposal is the answer, but we should have an opportunity in the Senate to take up the issue. We want to correct the error by requiring the federal government to add price thresholds to all leases including those issued in 1998 and 1999.

We ask that you schedule an up-or-down vote on the issue at the earliest opportunity and no later than the August recess. Thank you for your prompt consideration of our request.

Sincerely,

RON WYDEN.
JOSEPH I. LIEBERMAN.
JON KYL.
OLYMPIA SNOWE.

Mr. WYDEN. It is the hope of the bipartisan group of Senators that have followed this issue that this program, run by the Minerals Management Service, can be corrected. These are costly, costly mistakes involving billions of dollars. The Presiding Officer, the Senator from North Carolina, has been a great advocate of renewable energy.

For example, think what you could do if you took just a fraction of the money that is being wasted on royalty relief and moved it to the renewable energy field. You could help stimulate renewable energy production and reduce the deficit simultaneously. So that is what the bipartisan group of Senators want to do on this key issue.

Since I talked at some length about this a few weeks ago, I think I will move on to the other pocketbook issue. But I do hope, with hundreds of bills having been introduced in the Senate in both the energy and health care areas, that as we go into these last days of the session, the focus can be on those pieces of legislation that have

significant bipartisan support. That is true in the case of oil royalty relief and cutting those needless subsidies. It is also true with respect to prescription drugs, and I will wrap up with a few comments in that regard.

Mr. President, on the prescription drug issue, we saw, just a few days ago, two reports issued, one by AARP and the other by Families USA, indicating we have seen a very significant increase in the cost of prescription medicine since the beginning of this year. This comes, of course, at a time when Medicare Part D, the prescription drug program, is just kicking in. It comes at a time, of course, when we have seen the costs of this program skyrocket far beyond the original projections.

It would indicate to me that some of those who said competition in the private sector alone was going to do the job have not dealt with the consequences of what happens when the Government does not back up those private-sector kind of efforts. As you will recall, in the prescription drug debate, I was one of nine on this side of the aisle who voted for the legislation. I have got the welts on my back to show for it.

Senator SNOWE and I said then that we have to make sure the Government isn't the only part of the prescription drug arena where there is no opportunity to hold down the cost of medicine. Everybody else bargains today for the cost of medicine. That is true for any manufacturing in North Carolina. It is true in Oregon. It is true anywhere. Nobody ties their hands behind their back when it comes to trying to get the full value for their dollar in the health care sector. The only one who has their hands tied behind their back is the Federal Government when it comes to prescription medicine purchased under the Part D Medicare Program.

My sense is that this is another area where, with significant bipartisan support, Congress can move ahead. On the question of lifting the restriction so that Medicare can bargain to hold down the cost of medicine, Senator SNOWE and I got 54 votes for our bipartisan proposal to change the law. Once again, significant bipartisan support was given for a major change that will help taxpayers and consumers.

My sense is the price increases in prescription drugs we are seeing today is because there are few restraints on the prices that can be charged. There are what are called PBMs, pharmaceutical benefit managers. They have a role to play. It can be a useful one. But if we are really going to make sure we are using all the tools to hold down the cost of medicine, the Government ought to have authority to say, if the private sector isn't going to give a fair shake to seniors and taxpayers, there ought to be backup authority. The Government should be able to say: We are going to now make it clear that there is an opportunity to bargain and do what everybody else in America does to hold down the cost of medicine.

The price increases we have seen in the first 3 months of this year comprise the largest quarterly price increases in 6 years. It comes at a time when the Medicare prescription drug program is going into effect. The prices jumped something like four times the general inflation rate. We are seeing, right at a key time when the Medicare prescription drug program is getting off the ground, prices go up four times faster than the inflation rate. We are seeing the biggest quarterly price increases in 6 years. That makes the case for the Congress looking at a bipartisan way to beef up opportunities to contain the cost of prescription drug medicine.

In the Snowe-Wyden legislation which received 54 votes, we specifically state that there can be no price controls and no uniform formulary which would be, in effect, a backdoor Federal price control. I know the Senator from North Carolina has been interested in the question of what will happen to research, what will happen to innovation. I happen to share the view of the Senator from North Carolina that to come up with big price control regimes and Federal arbitrary standards for the formularies that make judgments about medicine would be a mistake. Under our legislation, we specifically say we will lift the restriction on bargaining power so the Government will not be the only part of the health care sector that is not trying to get value for the dollar. But our amendment said no price controls and no uniform, one-size-fits-all formulary that, for all practical purposes, would be a backdoor set of price controls.

These two studies from AARP and Families USA are extremely alarming because the theory behind the Medicare prescription drug program was that having a variety of plans in the private sector would produce competition, and competition would serve to hold down the cost of medicine. Now there is concrete proof that competition alone is not serving to be an adequate strategy for containing the cost of medicine. That is why the bipartisan amendment Senator SNOWE and I have been pursuing since the prescription drug program went into effect several years ago is much needed.

When you have these higher prescription drug prices, premiums seniors have to pay almost always bump up. Let's think about what happens if you bump up the premiums the seniors pay for Medicare Part D. One of the things I have seen in my years of working with older people—it goes back to my days when I was director of the Gray Panthers—is you jack up the premiums on seniors and, as sure as the night follows the day, you will get fewer seniors enrolling in the program.

We understand that if this program is going to be successful over the long term, you have to get more seniors signed up. You have to get more seniors enrolled. But what happens when you have higher drug prices as AARP and Families USA found, will be higher premiums next year for seniors in the Part D program. Then all of a sudden, with higher prices and higher premiums, what will happen is fewer seniors will sign up for the program. And without them enrolling in this program, Part D will not be the success we all would like to it to be, especially those of us who voted for it.

I wanted to take a few minutes today to talk about two issues: the question of needless oil company subsidies, an effort Senator KYL and I have spearheaded that has significant bipartisan support for saving taxpayers money, getting us on track for a fresh, new energy policy that can truly make us free of our dependence on foreign oil; and this question of prescription drug costs where, as well. There is significant bipartisan support to put bargaining power in Medicare. The Snowe-Wyden amendment received 54 votes the last time the Senate voted on it. There is a real role for the Senate to play at this key time now that it has been reported that drug prices jumped up in the first quarter of this year just as the Medicare Part D Program was going into effect.

Finally, we understand that on the Senate calendar there is not going to be a time for every possible issue to be considered. In the case of energy and health care, there are hundreds of bills in both areas, both energy and medical services, that have been introduced by Senators of both parties. My hope is that a handful of these issues can be moved to the head of the queue. The real measure for consideration ought to be significant bipartisan support.

In the areas I have talked about this afternoon, that test has been met. The other body has already passed efforts to reduce these needless oil subsidies, essentially passed the very thing I talked about on the floor of the Senate for 5 hours. A majority of Senators have voted for the effort Senator SNOWE and I have spearheaded to hold down the cost of medicine. There are opportunities, at a time when the country is looking at the partisanship coming from Washington, DC, to bring the Senate together around good and bipartisan legislation that addresses the pocketbook concerns of the American people. That is why I have come to the Chamber to talk about how we can make a difference working together for the public.

It is my intention to come back in the weeks ahead to talk about similar efforts that can actually be passed in the Senate before the session wraps up and constitute the kind of good government the American people expect from the Senate.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

FLAG DESECRATION AMENDMENT

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 4 p.m. having arrived, the Senate will proceed to the immediate consideration of S.J. Res. 12, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 12) proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

The Senate proceeded to consider the joint resolution which had been reported from the Committee on the Judiciary, with an amendment, as follows:

[Omit the part struck through and insert the part printed in italic.]

S.J. RES. 12

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States [within 7 years after the date of its submission by the Congress] *within seven years after the date of its submission for ratification:*

''ARTICLE ____

''The Congress shall have power to prohibit the physical desecration of the flag of the United States.''.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the Judiciary Committee, which I chair, has reported to the floor an amendment to the Constitution of the United States which would authorize legislation to prohibit burning of the American flag.

The Supreme Court of the United States, in Texas v. Johnson in 1989 and again in United States v. Eichman in 1990, in a 5-to-4 decision ruled that the first amendment to the U.S. Constitution relating to freedom of speech would be violated by legislation which prohibited flag burning.

At the outset of the debate on this amendment, it is vital to note that the pending amendment does not seek to alter the language of the first amendment. The first amendment of the U.S. Constitution protecting speech, religion, press, and assembly is inviolate, really sacrosanct. But that is not to say the decisions of the Supreme Court of the United States have that same status.

We have, since the adoption of the U.S. Constitution in 1787 and the Bill of Rights, the 10 amendments, in 1791, held freedom of speech as one of our highest values, along with freedom of religion, freedom of the press, the right to assemble, and the right to petition the Government. But decisions by the Supreme Court of the United States are, in a sense, transitory. They have the final word, and we respect their judgment, but our constitutional process allows for amendments in a complicated way. It has to pass both Houses of the Congress by two-thirds vote and then be ratified by three-fourths of the States. So it is a high bar to change what the Supreme Court of the United States says the Constitution means.

The five Justices who found the first amendment violated are Justice Brennan, Justice Marshall, Justice Blackmun, Justice Scalia, and Justice Kennedy. The four Justices in dissent were Chief Justice Rehnquist, Justice White, Justice O'Connor, and Justice Stevens. So had the Court been slightly differently constituted, we wouldn't be talking about a constitutional amendment.

It is important to focus on the basic fact that the text of the first amendment, the text of the Constitution, the text of the Bill of Rights, is not involved. It is the decision by the Supreme Court, it is the decision where any one of five made a majority. It is that difference of opinion that is at issue, and it is important to note that when decisions are rendered by the Supreme Court of the United States, they are the ''opinion'' of the Court. There is no verity, there is no absolutism, unlike what might be contended for the Constitution itself, especially the first amendment.

It is important to note that there have been many decisions by the Supreme Court of the United States which have limited freedom of speech under the first amendment. The first case which comes to mind is the famous opinion by Justice Oliver Wendell Holmes saying that an individual could not cry ''fire'' in a crowded theater. People have a right to speak, but there are limitations as to how people may exercise freedom of speech, and that is one limitation.

A Supreme Court decision in Chaplinsky v. New Hampshire in 1942 had special significance when the Court decided that fighting words were not protected by the constitutional protection of freedom of speech. The defendant in a criminal case had used condemnatory curse words, a fight resulted, and he was convicted. The Court said freedom of speech did not go that far and upheld his conviction.

The Court observed in that case a standard which is significant, and that is:

It has been well observed that such utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.

I believe that standard applies to flag burning.

We have had other instances where the Supreme Court of the United States has limited freedom of speech. For example, on inciting unlawful conduct, you can say what you please, but you cannot incite others to unlawful conduct and then defend on the ground of freedom of speech.

Obscenity cases are another line of decisions, complex decisions, conduct which is gauged by contemporary community standards and the question of whether the speech has its dominant appeal to prurient interests. It is pretty hard to define what that means. That was a definition I wrestled with consistently when I was assistant attorney of Philadelphia to make a determination as to where freedom of expression and freedom of speech crossed the line.

On pornography, which is a lesser standard, you don't have to go to the level of obscenity on pornography if children are involved. There again, the first amendment protection for freedom of speech does not cover it.

An individual in our society does not have the constitutional right to make false statements of fact, but that individual may be taken to a court of law, sued, and damages collected for slander, verbal false statements of fact, or libel, written false statements of fact.

Similarly, the first amendment does not protect speech which constitutes threats of violence. And just last month in a widely noted case, the Supreme Court decided that governmental employees have limits on what their speech can contain.

The Chaplinsky decision, which I cited a few moments ago, sets a standard which, as a generalization, notes that there will not be protection for utterances which are no essential part of any exposition of ideas and therefore are of slight social value.

It is my opinion—and again, I denominate it as an opinion, just as the Supreme Court of the United States denominates its decisions as opinions. We all have our own opinions. We are all entitled to our own opinions. If there are enough opinions to the contrary of the five Supreme Court Justices—that is, the opinions of two-thirds of the Senate and two-thirds of the House of Representatives and three-fourths of the legislatures of the States—then we may make a modification of what the Supreme Court has said in declaring that flag burning is protected by freedom of speech.

It is my sense that under the Supreme Court decision in Chaplinsky, we are dealing with conduct which is not an essential part of an exposition of ideas and does not have social value as a step to the truth, and that whatever is derived from it is clearly outweighed by the social interest in order and tranquility. It is my view that flag burning is a form of expression which is spiteful or vengeful or designed to antagonize, designed to hurt. It is not designed to persuade.

Again referring to the opinion of perhaps America's greatest Jurist, Oliver